

REMARKS

Applicants respectfully request reconsideration of this application in view of the foregoing amendments and following remarks.

Claims 1, 10, 12, 19, 21, 22 and 27-30 are pending in this application. Claims 1, 12, 21 and 22 were objected to. Claims 1, 10, 12, 19, 21, 22 and 27-30 were rejected. Claims 1, 12, 21 and 22 are amended in this response. No new matters have been added.

A. **Claim Objections**

Claims 21 and 22 have been objected because of the informalities in the claim language. The claims 21 and 22 have been amended to remedy the deficiencies.

B. **35 USC 112, first paragraph rejection**

Claims 1, 12, 21 and 22 are rejected under 35 USC §112, second paragraph as being indefinite for failing to particularly point out and distinctively claim the subject matter which the applicant regards as the invention.

Claims 1, 12, 21 and 22 have been amended to change the word “luminance level deciding unit” to “luminance distribution determination unit.”

Support for the amendment can be found in the specification. Particularly, the specification on page 13, lines 22-26 states “[t]he luminance distribution determination means 42 determines this histogram distribution and, more specifically, the magnitudes of histogram levels exhibiting low luminance levels.”

C. **35 USC 103(a) rejection**

Claims 1, 10, 12, 19, 21 and 22 were rejected under 35 USC 103(a) as being unpatentable over Steinberg (US 6,151,073) in view of Boyack (US 5,724,456).

Steinberg discloses an intelligent flash system for a digital camera having components including an image optical pickup, an interface circuit, a flash unit and a processor. Upon activation of the camera, ambient lighting conditions are evaluated and if flash energy is required, a first low energy pre-flash is radiated, the reflected light received by the optical pickup having a multiplicity of pixels, and the output of the pixels converted to image intensity data by the interface circuit. The Office Action states that Steinberg fails to disclose “an apparatus in

which the control unit controls a light emission of an illumination device, in which an area exceeding the predetermined luminance level is excluded in the control of the light emission.”

The Office Action further states that Boyack allegedly remedies the deficiency in Steinberg.

In Boyack, a luminance signal used for luminance analysis is obtained by excluding luminance signal of a predetermined luminance level from luminance signal. In Boyack, threshold level is set with respect to the luminance level and the excluded luminance signal is determined on the basis of only the threshold level (see lines 32-57, column 9).

To the contrary, in the present invention as set forth in claim 1 as an example, discloses “... control unit controls a light emission in a case of a flash photographing operation based on a luminance signal excluding a luminance signal of an area which is determined as to have a luminance level of the predetermined range by said luminance distribution determination unit, and whose proportion to overall frame exceeds a reference value.”

In the cited reference Boyack, luminance signal of an area whose luminance level exceeds the threshold level is excluded, even if a proportion of the area is small. The present invention, to the contrary, luminance signal of an area whose luminance level exceeds the threshold level is not excluded, if a proportion of the area is small.

Independent claims 12, 21 and 22, and dependent claims in this application are patentable for similar reasons as stated above. This response is not an admission that the cited references constitutes prior art.

Therefore, the present invention is different from the cited references Steinberg and Boyack combined.

CONCLUSION

Based on the foregoing amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the rejection of claims and allowance of this application.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. **13-4500**, Order No. 1232-4680. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. **13-4500**, Order No. 1232-4680. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: April 6, 2006

By:


Ping Gu

Registration No. L0040

Correspondence Address:

MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101
(212) 415-8700 Telephone
(212) 415-8701 Facsimile